

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

A. DAVIES,

Plaintiff, No. CIV S-03-0014 LKK JFM P

vs.

DR. K. LOW, et al.,

Defendants. ORDER

Plaintiff is a state prisoner proceeding pro se in this civil rights action for relief pursuant to 42 U.S.C. § 1983. On December 1, 2005, plaintiff filed an “ex parte” motion for temporary restraining order. On January 30, 2006, this court issued findings and recommendations recommending that plaintiff’s motion be denied.

On February 23, 2006, plaintiff filed objections to the findings and recommendations noting that his reply to the defendants’ opposition to plaintiff’s motion was filed late because he did not receive defendants’ opposition until January 18, 2006, and was under the misapprehension that he had until January 25, 2006 in which to file his reply as that would have been seven days after he received the defendants’ opposition.

The court docket reflects that plaintiff’s reply was filed after the findings and recommendations issued. Good cause appearing, the court will vacate the findings and

1 recommendations and the motion will stand resubmitted so that the court may consider plaintiff's  
2 reply.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. The January 30, 2006 findings and recommendations are vacated; and  
5 2. Plaintiff's December 1, 2005 motion will stand submitted.

6 DATED: March 7, 2006.

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8 John F. Marullo  
9 UNITED STATES MAGISTRATE JUDGE  
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